

ENVIRONMENT & CLIMATE CHANGE

ECODESIGN FOR SUSTAINABLE
PRODUCTS REGULATION

VdA EXPERTISE



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The EU Ecodesign for Sustainable Products Regulation ('ESPR'), Directive (EU) 2024/1781 of 13 June 2024, establishing a framework for the setting of ecodesign requirements for sustainable products, was published on 28 June 2024 and will come into the force on the 18 July 2024.

The ESPR repeals the Ecodesign Directive 2009/125/EC and amends Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers and Regulation (EU) 2023/1542 concerning batteries and waste batteries. It is a part of the package of the European legislation on sustainable products – the 2020 Circular Economy Action Plan – which includes the Empower Consumers for the Green Transition Directive and the Right to Repair Directive, as well as the Green Claims Directive that is yet to be published, among other legal diplomas.

It aims to make sustainable products the norm, increase circularity and reduce the overall carbon and environmental footprint of products during their life cycle, while ensuring the free movement of sustainable products in the internal market. It also introduces the Digital Product Passport, provides for the setting of mandatory green public procurement requirements and includes rules that aim to prevent unsold consumer products from being destroyed.

Ecodesign requirements

The ESPR sets forth that the ecodesign requirements to be established through delegated acts shall aim to improve the following product aspects: (i) durability; (ii) reliability; (iii) reusability; (iv) upgradability; (v) repairability; (vi) possibility of maintenance and refurbishment; (vii) presence of substances of concern; (viii) energy use and energy efficiency; (ix) water use and water efficiency; (x) resource use and resource efficiency; (xi) recycled content; (xii) possibility of remanufacturing; (xiii) recyclability; (xiv) possibility of the recovery of materials; (xv) environmental impacts, including carbon footprint and environmental footprint; (xvi) expected generation waste.

Ecodesign requirements shall follow some criteria, such as: (i) no significant negative impact on the functionality of the product, from the perspective of the user; (ii) no adverse effect on the health and safety of persons; (iii) no significant negative impact on consumers in terms of the affordability of relevant products, also considering access to second-hand products, durability and the life cycle cost of products; (iv) no disproportionate administrative burden on manufacturers or other actors in the value chain, including SMEs.

The performance requirements and information requirements set in the ESPR are to be established throughout delegated acts. The information shall be provided in the Digital Product Passport when available and, when necessary, also on one or more of the following forms: product, product's packaging, product passport,

label, user manual or other documents accompanying the product, website or application.

Ecodesign specific sustainability requirements for products will be also set in delegated acts and cover the products placed on the EU market, whether produced inside or outside the EU, except the products exempted from its scope of application: food products, medicinal and veterinary medicinal products, living plants, animals and micro-organisms, products of human origin, products of plants and animals relating directly to their future reproduction, vehicles (in respect of those product aspects for which requirements are set under sector-specific Union legislative acts applicable to those vehicles), or products whose sole purpose is to serve defence or national security.

The Commission will prioritize, on the first working plan, for the setting of ecodesign requirements, products such as: iron and steel, aluminum, textile (especially garments and footwear), furniture (including mattresses), tyres, detergents, paints, lubricants and chemicals, some energy related products, information and communication technology products and other electronics. Preparatory works for textile requirements have already started.

Digital product passport ('DPP')

The ESPR introduces an obligation for every in-scope product placed on the EU market or put into service to have a DPP. The DPP is a unique digital identification, disclosure and traceability tool that contains complete, accurate and up-to date information about the environmental impact of a product throughout its life cycle and the product's entire value chain, among other aspects.

Customers, manufactures, importers, distributors, dealers, professional repairers, independent operators, refurbishers remanufacturers, recyclers, market surveillance authorities and customs authorities, civil society organisations, trade unions and other relevant value chain actors will have free of charge and easy access to DPP based on their respective access rights. The digital product passport shall be stored by the economic operator responsible for its creation or by digital product passport service providers. The Commission has to create a digital registry to store data and the economic operator that places the product on the market or puts it into service is responsible for the upload of the data in the registry. Upon the uploading by the economic operator of the data in the registry, the registry shall



Products shall only be placed on the market or put into service, if they comply with the ecodesign requirements applicable to them, set out in the delegated acts to be published. The ESPR has a broader scope of application when comparing to the former Ecodesign Directive because any product not already covered by its own product-specific laws falls within the ESPR's scope of application, unless it is exempted from the ESPRs' scope of application.

automatically communicate to that economic operator a unique registration identifier associated with the unique identifiers uploaded in the registry for a specific product.

As a source of detailed information about the environmental sustainability of the product, the DPP has to fulfil specific requirements, such as: i) be connected through a data carrier to a persistent unique product identifier; ii) be physically present on the product, on the packaging or on documentation accompanying the product; iii) all data included in it shall be based on open standards, developed with an interoperable format, machine-readable, structured, searchable, and transferable through an open interoperable data exchange network without vendor lock-in; iv) refer to the product model, batch or item.

Destruction of unsold consumer products

ESPR establishes a general principle of prevention of destruction: economic operators must take the necessary measures which can reasonably be expected to prevent the need to destroy unsold consumer products. The economic operators must comply with reporting obligations by disclosing information on unsold consumer products, such as: report about the quantity and weight of unsold consumer products discarded per year, differentiated per type/category of products, indicate the reasons for discarding products and the measures taken and planned to prevent destruction of unsold consumer products.

It also establishes a ban on the destruction of unsold consumer products, such as apparel and clothing accessories and footwear applicable from 19.07.2026. The Commission shall adopt implementing acts setting out the details and format for the disclosure of information and a delegated act setting out derogations from the prohibition of destruction of unsold consumer products. The obligation of disclosure applies to large companies on the first full financial year in which ESPR is in force and the ban on the destruction applies as from 19 July 2026. For both

obligations, small and micro-enterprises are exempted, and medium-sized companies must only apply it as from 19 July 2030.

Conformity assessment of products

Before placing a product covered by the delegated acts on the market or putting it into service, manufacturers must carry out a conformity assessment procedure specified in the applicable delegated act. The EU declaration of conformity shows that the product demonstrates the fulfilment of the ecodesign requirements specified in the applicable delegated acts or that a presumption of conformity as defined in ESPR is applicable.

Obligations for different agents

Specific obligations set for: manufacturers, authorised representatives, importers, distributors, dealers, fulfilment service providers, providers of online marketplaces and online search engines, economic operators, supply chain actors, labels.

Penalties

Member States shall lay down the rules on penalties (at least fines and time-exclusion from public procurement procedures) applicable to infringements of this Regulation, orientated by the criteria established in ESPR (financial situation, economic benefits and environmental damage, for instance).

Implementation

Being a framework regulation, new ecodesign requirements will only be applicable to specific groups of products after the adoption of the product-specific delegated acts. The first delegated act with specific ecodesign requirements may not come into force before 19 July 2025. The application date of the delegated acts cannot be shorter than 18 months after their entry into force (with possible exemptions).

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